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Attorneys for Defendant, Anthony Mark Abode

Our File No. 20.70060

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**BASSEM KANDIL and FLORA KANDIL, his
wife,**

Plaintiffs

vs.

**POLICE OFFICER GARY YURKOVIC,
POLICE OFFICER ANTHONY MARK ABODE,
POLICE OFFICER WILLIAM C. OELS, III,
SERGEANT WILLIAM OELS, CHIEF OF
POLICE, CITY OF NEW BRUNSWICK, CITY
OF NEW BRUNSWICK POLICE
DEPARTMENT, MIDDLESEX COUNTY
PROSECUTOR'S OFFICE, MIDDLESEX
COUNTY CORRECTIONAL FACILITY, JOHN
DOE SUPERVISING OFFICERS 1-10, JOHN
DOES 1-10, ABC CORPS. 1-10,**

Defendants.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CIVIL ACTION NO.: 06-4701 (JAG)

**ANSWER TO AMENDED COMPLAINT,
SEPARATE DEFENSES, CROSSCLAIM
FOR CONTRIBUTION AND
CONTRACTUAL INDEMNIFICATION,
JURY DEMAND, DEMAND FOR
STATEMENT OF DAMAGES,
CERTIFICATION, AND CERTIFICATION
OF SERVICE**

Defendant, Anthony Mark Abode, by way of Answer to the Amended Complaint, says:

JURISDICTION

1. Defendant, Anthony Mark Abode, has insufficient knowledge to either admit or deny the allegations of Paragraph 1 and, therefore, leaves Plaintiffs to their proofs.
2. Defendant, Anthony Mark Abode, admits the allegations contained in Paragraph 2 insofar as they are directed at him..
3. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 3 since they are not directed at him.
4. Defendant, Anthony Mark Abode, denies that this Court has jurisdiction over the subject

matter of this lawsuit because the matter does not involve Federal questions and states that this Court should refrain from exercising its pendant jurisdiction over claims based upon State law.

THE PARTIES

1. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 1 since they are not directed at him.

2. Defendant, Anthony Mark Abode, admits that at all relevant times he was a duly appointed Police Officer of the City of New Brunswick Police Department and states that at all relevant times he acted in an objectively reasonable manner, in good faith, with probable cause and in accordance with the Rules, Regulations, Policies and Procedures of the City of New Brunswick and the City of New Brunswick Police Department, however, he denies the remaining allegations of Paragraph 2.

3. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 3 since they are not directed at him.

4. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 4 since they are not directed at him.

5. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 5 since they are not directed at him.

6. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 6 since they are not directed at him.

7. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 7 since they are not directed at him.

8. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 8 since they are not directed at him.

9. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 9 since they are not directed at him.

10. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 10 since they are not directed at him.

11. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 11 since they are not directed at him.

12. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 12 since they are not directed at him.

13. Defendant, Anthony Mark Abode, admits the allegations of Paragraph 13 insofar as they are directed at him

14. Defendant, Anthony Mark Abode, admits the allegations of Paragraph 14 insofar as they are directed at him.

FIRST COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and incorporate same as if set forth herein at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the First Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the First Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, admits the allegations contained in Paragraph 4 of the First Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 5 of the First Count of Plaintiffs' Amended Complaint.

6. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 6 of the First Count of Plaintiffs' Amended Complaint.

7. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 7 of the First Count of Plaintiffs' Amended Complaint.

8. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 8 of the First Count of Plaintiffs' Amended Complaint.

9. Defendant, Anthony Mark Abode, denies that the Plaintiffs are entitled to an award of punitive damages.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

SECOND COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First Count of Plaintiffs' Amended Complaint and incorporates same as though fully set forth at length

2. Defendant, Anthony Mark Abode, admits the allegations contained in Paragraph 2 of the Second Count of Plaintiffs' Amended Complaint insofar as they are directed at the Defendants, Yurkovic, Oels and him.

3. Defendant, Anthony Mark Abode, admits the allegations contained in Paragraph 3 of the Second Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Second Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 5 of the Second Count of Plaintiffs' Amended Complaint.

6. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 6 of the Second Count of Plaintiffs' Amended Complaint.

7. Defendant, Anthony Mark Abode, denies that the Plaintiffs are entitled to an award of punitive damages.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

THIRD COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First and Second Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Third Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Third Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Third Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 5 of the Third Count of Plaintiffs' Amended Complaint.

6. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 6 of the Third Count of Plaintiffs' Amended Complaint.

7. Defendant, Anthony Mark Abode, denies that the Plaintiffs are entitled to an award of punitive damages

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

FOURTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second and Third Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Fourth Count of Plaintiffs' Amended Complaint and asserts that the obligations for providing the Plaintiffs with discovery are those of the Defendant, Middlesex County Prosecutor's Office.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Fourth Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Fourth Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 5 of the Fourth Count of Plaintiffs' Amended Complaint.

6. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 6 of the Fourth Count of Plaintiffs' Amended Complaint.

7. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 7 of the Fourth Count of Plaintiffs' Amended Complaint.

8. Defendant, Anthony Mark Abode, denies that the Plaintiffs are entitled to an award for punitive damages.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

FIFTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations

contained in the section designated The Parties and the First, Second, Third and Fourth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, has insufficient knowledge to either admit or deny the allegations contained in Paragraph 2 of the Fifth Count of the Plaintiffs' Amended Complaint and, therefore, leaves Plaintiffs to their proofs.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Fifth Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Fifth Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 5 of the Fifth Count of Plaintiffs' Amended Complaint.

6. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 6 of the Fifth Count of Plaintiffs' Amended Complaint.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

SIXTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth and Fifth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 2 of the Sixth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

3. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 3 of the Sixth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

4. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 4 of the Sixth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

5. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 5 of the Sixth Count of the Plaintiffs' Amended Complaint since they are not directed at him..

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

SEVENTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth and Sixth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Seventh Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Seventh Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Seventh Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 5 of the Seventh Count of Plaintiffs' Amended Complaint.

6. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 6 of the Seventh Count of Plaintiffs' Amended Complaint.

7. Defendant, Anthony Mark Abode, denies that the Plaintiffs are entitled to an award of punitive damages.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

EIGHTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth, Sixth, and Seventh Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Eighth Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Eighth Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Eighth Count of Plaintiffs' Amended Complaint.

5. Defendant, Anthony Mark Abode, denies that the Plaintiffs are entitled to an award of punitive damages.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

NINTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, admits that at all relevant times he was a duly appointed Police Officer of the City of New Brunswick and acted in an objectively reasonable manner, in good faith, with probable cause and in accordance with the Rules, Regulations, Policies and Procedures of the City of New Brunswick and the City of New Brunswick Police Department, however, he denies the remaining allegations of Paragraph 2.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Ninth Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Ninth Count of Plaintiffs' Amended Complaint.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

TENTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Tenth Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Tenth Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Tenth Count of Plaintiffs' Amended Complaint.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing

Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

ELEVENTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Eleventh Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Eleventh Count of Plaintiffs' Amended Complaint.

4. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 4 of the Eleventh Count of Plaintiffs' Amended Complaint.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

TWELFTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 2 of the Twelfth Count of Plaintiffs' Amended Complaint.

3. Defendant, Anthony Mark Abode, denies that the Plaintiff is entitled to a judgment against Defendants as demanded.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

THIRTEENTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the section designated The Parties and the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 2 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

3. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 3 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

4. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 4 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

5. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 5 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

6. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 6 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

7. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 7 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

8. Defendant, Anthony Mark Abode, neither admits nor denies the allegations of Paragraph 8 of the Thirteenth Count of the Plaintiffs' Amended Complaint since they are not directed at him.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

FOURTEENTH COUNT

1. Defendant, Anthony Mark Abode, repeats each and every answer to the allegations contained in the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth and Thirteenth Counts of the Plaintiffs' Amended Complaint and incorporates same herein as if set forth at length.

2. Defendant, Anthony Mark Abode, has insufficient knowledge to either admit or deny the allegations contained in Paragraph 2 of the Fourteenth Count of the Plaintiffs' Amended Complaint and, therefore, leaves Plaintiffs to their proofs.

3. Defendant, Anthony Mark Abode, denies the allegations contained in Paragraph 3 of the Fourteenth Count of Plaintiffs' Amended Complaint.

WHEREFORE, Defendant, Anthony Mark Abode, demands judgment dismissing Plaintiffs' Amended Complaint, for reasonable attorney's fees, costs of suit and for such other relief as the Court may deem proper and just.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND SEPARATE DEFENSE

The Amended Complaint fails to state a cause of action against the Defendant, Anthony Mark Abode.

THIRD SEPARATE DEFENSE

Any injuries allegedly sustained by the Plaintiffs were the direct and proximate result of the Plaintiffs' own conduct.

FOURTH SEPARATE DEFENSE

The intentional, unlawful and/or criminal conduct of Plaintiffs was the proximate cause of damages or injuries alleged by Plaintiffs.

FIFTH SEPARATE DEFENSE

Any and all injuries or damages allegedly sustained by the Plaintiffs were caused by the negligence of the Plaintiffs.

SIXTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, if involved at all, acted within the scope of his authority as a Police Officer, in good faith and in an objectively reasonable manner in the performance of his duties.

SEVENTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, if involved at all, acted reasonably and properly under the circumstances.

EIGHTH SEPARATE DEFENSE

No malicious intent of causing a deprivation of the Plaintiffs' civil rights and/or constitutional rights has been factually set out against the Defendant, Anthony Mark Abode.

NINTH SEPARATE DEFENSE

All of the actions of Defendant, Anthony Mark Abode, were performed in his official capacity as a Police Officer of the City of New Brunswick Police Department, were based upon probable cause and were performed in good faith, in an objectively reasonable manner and in accordance with the Rules, Regulations, Policies and Procedures of the City of New Brunswick and the City of New Brunswick Police Department, and he is, therefore, entitled to qualified immunity under the statutes.

TENTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, acted at all times with probable cause in good faith and in an objectively reasonable manner.

ELEVENTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, denies the allegations of improper conduct as set forth in Plaintiffs' Amended Complaint, however, the alleged misconduct does not rise to the level of a constitutional violation.

TWELFTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, acted in good faith, in an objectively reasonable manner and without malicious intent to deprive Plaintiffs of their constitutional rights.

THIRTEENTH SEPARATE DEFENSE

Any injuries and damages that may have been sustained by the Plaintiffs were the direct result of actions of other unnamed persons over whom the Defendant, Anthony Mark Abode, had no control.

FOURTEENTH SEPARATE DEFENSE

Any injuries and damages that may have been sustained by the Plaintiffs were caused solely by the negligence of persons over whom the Defendant, Anthony Mark Abode, had no control.

FIFTEENTH SEPARATE DEFENSE

Any and all injuries and damages that may have been sustained by Plaintiffs were caused solely by the negligence of Co-Defendants, Middlesex County Prosecutor's Office, Middlesex County Correctional Facility, John Doe Supervising Officers 1-10, John Does 1-10, and ABC Corps. 1-10.

SIXTEENTH SEPARATE DEFENSE

There was no willfulness involved in any of the events involving the factual basis upon which the suit has been instituted.

SEVENTEENTH SEPARATE DEFENSE

The Defendant, Anthony Mark Abode, acted on reasonable grounds and without malice and, therefore, is not answerable to the Plaintiffs in damages.

EIGHTEENTH SEPARATE DEFENSE

The Defendant, Anthony Mark Abode, violated no legal duty owing to the Plaintiffs.

NINETEENTH SEPARATE DEFENSE

The conduct of Defendant, Anthony Mark Abode, was not the proximate cause of the Plaintiffs' alleged injuries or damages.

TWENTIETH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, denies that he was guilty of any negligence which was the proximate or producing cause of any injuries or damages allegedly sustained by the Plaintiffs.

TWENTY-FIRST SEPARATE DEFENSE

Defendant, Anthony Mark Abode, did not act with a deliberate indifference to the rights of the Plaintiffs and, therefore, this lawsuit should be dismissed.

TWENTY-SECOND SEPARATE DEFENSE

Punitive damages may not be awarded against Defendant, Anthony Mark Abode, since he was a public employee acting in the course of his employment and in his official capacity as a duly appointed Police Officer of the City of New Brunswick Police Department, in good faith, with probable cause and in an objectively reasonable manner and in accordance with the Rules, Regulations, Policies and Procedures of the City of New Brunswick and the City of New Brunswick Police Department.

TWENTY-THIRD SEPARATE DEFENSE

Plaintiffs are barred from recovery for failure to obtain jurisdiction over Defendant, Anthony Mark Abode.

TWENTY-FOURTH SEPARATE DEFENSE

All of the acts of Defendant, Anthony Mark Abode, were performed in good faith, were based upon probable cause and were in accordance with the Rules, Regulations, Policies and Procedures of the City of New Brunswick and the City of New Brunswick Police Department and, therefore, all claims that the Defendant, Anthony Mark Abode, is liable and responsible for punitive damages, should be dismissed.

TWENTY-FIFTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, did not act pursuant to an official policy, custom, practice or usage of the City of New Brunswick and the City of New Brunswick Police Department to deprive the Plaintiffs of their constitutional rights or to permit violations of constitutional rights of citizens.

TWENTY-SIXTH SEPARATE DEFENSE

Plaintiffs' claims are barred by the Doctrine of res judicata.

TWENTY-SEVENTH SEPARATE DEFENSE

Plaintiffs' claims are barred by the Doctrine of Collateral Estoppel.

TWENTY-EIGHTH SEPARATE DEFENSE

Plaintiffs' claims are barred by the Doctrine of Unclean Hands.

TWENTY-NINTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, reserves the right to apply for the imposition of sanctions against the Plaintiffs pursuant to N.J.S.A. 2A:15-59.1 and Rule 11 of FRCP and to make an application for counsel fees and costs of suit pursuant to Section 1988 of Title 42 of the United States Code Annotated on the basis that the within cause of action is without merit, is frivolous and has been instituted by the Plaintiffs in bad faith and with the intent to harass this Defendant and to cause him to incur great expenses in defense of same, all to the damage of this Defendant.

THIRTIETH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, expressly and specifically reserves and impleads any and all rights, remedies and immunities pursuant to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and as such, the Plaintiffs are barred from recovery.

THIRTIETH-FIRST SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A. 59:2-3.

THIRTY-SECOND SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A. 59:2-4.

THIRTY-THIRD SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A. 59:2-5.

THIRTY-FOURTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A. 59:2-6.

THIRTY-FIFTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A. 59:3-2.

THIRTY-SIXTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A. 59:3-3.

THIRTY-SEVENTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A.
59:3-5

THIRTY-EIGHTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A.
59:3-7.

THIRTY-NINTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A.
59:3-8.

FORTIETH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from liability pursuant to the provisions of N.J.S.A.
59:4-6.

FORTY-FIRST SEPARATE DEFENSE

Plaintiffs are barred from recovery by virtue of the provisions of N.J.S.A. 59:5-2(b).

FORTY-SECOND SEPARATE DEFENSE

Plaintiffs are barred from recovery by virtue of the provisions of N.J.S.A. 59:5-4.

FORTY-THIRD SEPARATE DEFENSE

Plaintiffs have failed to timely file in proper form and substance, a Notice of Claim pursuant to the provisions of N.J.S.A. 59:8-3, 4, 5, 7, 8 and 10 of the New Jersey Tort Claims Act, and as such, the Plaintiffs are barred from recovery.

FORTY-FOURTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is immune from any prejudgment interest in the event of a judgment pursuant to the provisions of the New Jersey Tort Claims Act, 59:9-2(a).

FORTY-FIFTH SEPARATE DEFENSE

Plaintiffs are barred from recovery for pain and suffering pursuant to the provisions of N.J.S.A. 59:9-2(d).

FORTY-SIXTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is entitled to a credit for any benefits paid to the Plaintiffs pursuant to N.J.S.A. 59:9-2(e).

FORTY-SEVENTH SEPARATE DEFENSE

The force utilized by Defendant, Anthony Mark Abode, was reasonable, proper and justified in the circumstances.

FORTY-EIGHTH SEPARATE DEFENSE

The force utilized by Defendant, Anthony Mark Abode, was neither excessive nor unreasonable.

FORTY-NINTH SEPARATE DEFENSE

The force utilized by Defendant, Anthony Mark Abode, was in accordance with law and his training as a Police Officer.

FIFTIETH SEPARATE DEFENSE

All claims of the Plaintiffs are barred by the applicable Statutes of Limitations.

FIFTY-FIRST SEPARATE DEFENSE

There was insufficiency of process as to Defendant, Anthony Mark Abode.

FIFTY-SECOND SEPARATE DEFENSE

There was insufficiency of service of process as to Defendant, Anthony Mark Abode.

FIFTY-THIRD SEPARATE DEFENSE

Defendant, Anthony Mark Abode, was properly trained by the City of New Brunswick and the City of New Brunswick Police Department in accordance with the New Jersey Police Training Commission, the Attorney General Guidelines and the Rules, Regulations, Policies and Procedures of

the City of New Brunswick and the City of New Brunswick Police Department, and, therefore, all claims of improper training should be dismissed.

FIFTY-FOURTH SEPARATE DEFENSE

The Plaintiffs are barred from recovery by virtue of his failure to effectuate service of process in a timely manner pursuant to the provisions of Federal Rules of Civil Procedure

FIFTY-FIFTH SEPARATE DEFENSE

The criminal acts from third persons either unknown or over whom Defendant, Anthony Mark Abode, has no control were the proximate cause of injuries and damages allegedly sustained by the Plaintiffs.

FIFTY-SIXTH SEPARATE DEFENSE

Defendant, Anthony Mark Abode, is not responsible for the criminal acts of third persons.

FIFTY-SEVENTH SEPARATE DEFENSE

The arrest of the Plaintiff, Bassem Kandil, was based upon probable cause and was therefore lawful and the Plaintiff's allegations of false arrest, false imprisonment and malicious prosecution should be dismissed.

CROSSCLAIMS

CROSSCLAIM FOR CONTRIBUTION

Defendant, Anthony Mark Abode, denies he was negligent and states that the incident was the direct and proximate result of the actions of the Co-Defendants, Middlesex County Prosecutor's Office and the Middlesex County Correctional Facility, and that they were solely responsible for the injuries sustained by the Plaintiffs, but in the event this Defendant is found guilty of contributory negligence, Defendant, Anthony Mark Abode, demands contribution under and by reason of the Joint Tortfeasors Contribution Act, N.J.S.A. 2A:53-1, et seq., and as provided by the provisions of the Comparative Negligence Act, N.J.S.A. 2A:15-5.3, for a proportionate share of all of which the Plaintiffs may recover.

CROSSCLAIM FOR CONTRACTUAL INDEMNIFICATION

Defendant, Anthony Mark Abode, hereby demands common law and contractual indemnification, both express and implied, from the Co-Defendants, City of New Brunswick and the City of New Brunswick Police Department.

JURY DEMAND

The Defendant, Anthony Mark Abode, hereby demand/s a trial by jury on all issues in the above-captioned matter.

DEMAND FOR STATEMENT OF DAMAGES

Defendant, Anthony Mark Abode, filing this Answer to Plaintiffs' Amended Complaint demands a written statement of the amount of damages claimed within five (5) days after service thereof.

CERTIFICATION

In accordance with the Rules of Federal Procedure, I hereby certify that the matter in controversy is not the subject of any other action or arbitration proceedings, now or contemplated, and that at this time no other parties should be joined in this action.

GOLDEN, ROTHSCHILD, SPAGNOLA,
LUNDELL, LEVITT & BOYLAN, P.C.
Attorneys for Defendant, Anthony Mark Abode

/s/ Gary S. Spagnola

GARY S. SPAGNOLA

Dated: March 15, 2007

CERTIFICATION OF MAILING

I, GARY S. SPAGNOLA, certify as follows:

1. On March 15, 2007, I electronically filed the within Answer to Amended Complaint with the Clerk, United States District Court, Martin Luther King, Jr. Federal Building and Courthouse, 50 Walnut Street, P. O. Box 419, Newark, New Jersey 07101-0419.

2. On March 15, 2007, I forwarded one copy of the within Answer to Amended Complaint by regular mail to:

Robert D. Kobin, Esq.,
Nusbaum, Stein, Goldstein, Bronstein and Kron
20 Commerce Boulevard
Succasunna, NJ 07876

William T. Connell, Esq.
Dwyer, Connell & Lisbona
100 Passaic Avenue
Fairfield, NJ 07004

Michael John Stone, Esq.
The Stone Law Group
20 Glenview Drive
Warren, NJ 07059

Susan K. O'Connor, Esq.
Hoagland, Longo, Moran, Dunst & Doukas
40 Paterson Street
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